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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/379,675 08/24/99 AHMED

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EXAMINER

WM01/0914

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LOCUST VALLEY NY 11560

SMITH, S

ART UNIT

PAPER NUMBER

2683

DATE MAILED:

09/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/379,675

Applicant(s)  
Walid Ahmed

Examiner  
Sheila Smith

Art Unit  
2683



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 11 and 24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 11 and 24 the applicant needs to clarify all elements of the equation.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1-10,12-23,25-26 rejected under 35 U.S.C. 102(e) as being anticipated by Benveniste (U.S. Patent Number 6,112,092).

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*Regarding claims 1, 6,10,12, 25*, Benveniste discloses all of the claimed invention as set forth in the instant application, additionally Benveniste discloses a self-configurable channel assignment system and method, further Benveniste discloses a method for allocating a resource to a mobile station in a wireless network comprising collecting measurement of interference, processing collected information, and assigning resource to mobile as disclosed in column 2 lines 18-32.

*Regarding claims 2, 9, 15, 22*, Benveniste discloses everything claimed, as applied above (see claim 1) additionally, Benveniste discloses measurements collected from both mobile station and base station as disclosed in column 12 lines 16-25.

*Regarding claims 3-5, 16-18*, Benveniste discloses everything claimed, as applied above (see claim 1) additionally, Benveniste discloses measurements resource availability information provides a measure of load and interference on network as disclosed in column 10 lines 61-67, column 11 lines 1-6.

*Regarding claims 7,20*, Benveniste discloses everything claimed, as applied above (see claim 1) additionally, Benveniste discloses measurements received from neighboring base station on a beacon channel as disclosed in column 3 lines 26-36.

*Regarding claims 8,21*, Benveniste discloses everything claimed, as applied above (see claim 1) additionally, Benveniste discloses measurements received from neighboring base station on a beacon channel as disclosed in column 5 lines 61-67.

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*Regarding claims 13,26*, Benveniste discloses everything claimed, as applied above (see claim 1) additionally, Benveniste discloses call drop rate ensures that a resource will not be assigned to mobile as disclosed in column 11 lines 36-46.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14,19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beneveniste in view of Benveniste (U.S. Patent Number 6,230,016).

*Regarding claims 14,19 and 23*, Benveniste discloses all of the claimed invention as set forth in the instant application, additionally Benveniste discloses a self-configurable channel assignment system and method, further Benveniste discloses a method for allocating a resource to a mobile station in a wireless network comprising collecting measurement of interference, processing collected information, and assigning resource to mobile as disclosed in column 2 lines 18-32. However, Benveniste fails to disclose a memory for storing computer readable code and a processor coupled to memory.

In the same field of endeavor, Benveniste further discloses a apparatus and method for adaptive-dynamic channel assignment in wireless communication networks. In addition

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Benveniste discloses a memory (311) for storing computer readable code and a processor (310) coupled to memory as exhibited in figures 3 and as disclosed in column 3 lines 30-35.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to improve Benveniste by modifying a self-configurable channel assignment system and method with a memory for storing computer readable code and a processor coupled to memory as taught by Benveniste for the purpose of achieving optimal channel assignment.

***Citation of Pertinent Art***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Rahman*** (U. S. Patent Number 6,078,817) discloses a system and method of dynamically increasing the capacity of a code division multiple access radio telecommunications network;

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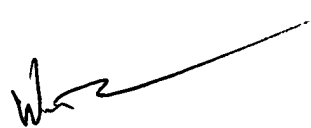
***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila Smith whose telephone number is (703) 305-0104. The examiner can normally be reached on Monday through from 6:30 a.m. to 3:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached (703)308-5318. The technical center receptionist phone number is (703) 305-4700. The fax number for the group is (703) 308-6306.

S. Smith

September 9, 2001

  
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